

REMARKS

Claims 1 through 22 are pending in this Application, of which claims 13 through 20 stand withdrawn from consideration pursuant to the provisions of 37 C.F.R. §1.142(b). Applicants acknowledge, with appreciation, the Examiner's allowance of claims 6 through 12. Accordingly, the only remaining issues pivot about the patentability of claims 1 through 5 and 21 through 23.

Claim 1 has been amended. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent from Figs. 2 and 3 and the related discussion thereof in the written description of the specification, noting that the bottom of the hole is not actually defined by the first dielectric layer 30. Rather, the hole is entirely within the dielectric layer 30 and the sides of the hole are defined entirely by the side surfaces of the single first dielectric layer, as one having ordinary skill in the art would have understood. Applicants submit that the present Amendment does not generate any new matter issue.

Claims 1, 2, 5, and 21 were rejected under 35 U.S.C. §102 for lack of novelty as evidenced by Morand et al.

This rejection is traversed. Specifically, submitted herewith is a Declaration pursuant to 37 C.F.R. §1.131 (Exhibit A hereto) antedating the filing date of Morand et al. which is September 12, 2000. Accordingly, the reference to Morand et al. is not prior art within the meaning of 35 U.S.C. §102 and, hence, the imposed rejection is not viable.

Based upon the foregoing, Applicants submit that the imposed rejection of claims 1, 2, 5, and 21 under 35 U.S.C. §102 for lack of novelty is evidence by Morand et al. is not factually or legally viable and, hence, solicit withdrawal thereof.

Claims 3, 4, 22, and 23 were rejected under 35 U.S.C. §103 for obviousness predicated upon Morand et al. in view of Chooi et al. and Wolfe.

This rejection is traversed. Specifically, claims 3, 4, 22, and 23 depend from independent claim 1. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 1 under 35 U.S.C. §102 for lack of novelty as evidenced by Morand et al. As the reference to Morand et al. is not prior art under 35 U.S.C. §102, the imposed rejection under 35 U.S.C. §103 must fall.

Applicants, therefore, submit that the imposed rejection of claims 3, 4, 22, and 23 under 35 U.S.C. §103 for obviousness predicated upon Morand et al. in view of Chooi et al. and Wolfe is not factually or legally viable and, hence, solicit withdrawal thereof.

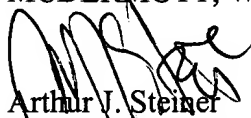
Based upon the foregoing, it should be apparent that the imposed rejections have been overcome and that all active claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

09/817,056

Respectfully submitted,

MCDERMOTT, WILL & EMERY

A handwritten signature in black ink, appearing to read 'Arthur J. Steiner', is written over the printed name.

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Date: May 12, 2004

Docket No.: 50432-067



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Kai Yang et al.	:	Confirmation Number:
Serial No.: 09/817,056	:	Group Art Unit: 2811
Filed: March 27, 2001	:	Examiner: T. Nguyen
For: STABILIZING FLUORINE ETCHING OF LOW-K MATERIALS	:	

DECLARATION UNDER 37 C.F.R. §1.131

Mail Stop Declaration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Kai Yang, Darrell Erb and Fei Wang, hereby declare that:

1. We are the inventors of the invention disclosed and claimed in the above-referenced United States patent application.
2. We are aware of the prosecution history of this application which was filed in the U.S. Patent and Trademark Office on March 27, 2001. We are also aware that claims in the application have been rejected under 35 U.S.C. §102 for lack of novelty and under 35 U.S.C. §103 for obviousness predicated primarily upon U.S. Patent 6,521,533 issued to Morand et al. on February 18, 2003, based upon a PCT application filed on September 12, 2000.

3. To our knowledge and in view of the factual evidence supplied herewith, the present invention was conceived in the United States prior to September 12, 2000 the filing date of the Morand et al. patent, as evidenced by the attached invention disclosure submitted to Advanced Micro Devices, Inc. (AMD), the assignee herein (Exhibit A hereto). Due diligence was exercised from prior to the September 12, 2000 filing date of the Morand et al. application to the filing date of the present application on March 27, 2001.

4. We further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statement may jeopardize the validity of the application or any patent issuing thereon.

4/28/04
Date

Date

Date

Kai Yang
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Darrell Erb

Fei Wang

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Date

May 3, 2004

Date

Kai Yang

Darrell M Erb

Darrell Erb

Date

Fei Wang

Docket No.: 50432-067



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Date

Kai Yang

Date

Darrell Erb

4-13-04

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Fei Wang

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